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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,346	03/16/2001	David Nanus	ARG-912-C1	1693

7590 03/13/2003
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EXAMINER

CANELLA, KAREN A

ART UNIT PAPER NUMBER

1642

DATE MAILED: 03/13/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/811,346

Applicant(s)
Nanus

Examiner
Karen Canella

Art Unit
1642



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 months MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 7, 8, 10, 11, and 14-31 is/are allowed.
- 6) ☒ Claim(s) 4-6, 9, 12, and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 8 6) ☐ Other: _____

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DETAILED ACTION

1. Acknowledgment is made of applicants election of Group I, drawn to methods of inhibiting the growth of cancer cells comprising the administration of at least one interferon and a retinoid. The traversal is on the grounds that the search for Group I would be coextensive with the search for Group II, drawn to kits comprising a retinoid and a interferon and therefore an undue burden would not be imposed upon the examiner. After review and reconsideration, claim 9 is re-joined to Group I.

2. Please note that originally filed claims 8, 9 and 10 were renumbered as claims 7, 8 and 9, respectively, according to rule 1.126. Consequently, newly submitted claims 11-32 were also renumbered as 10-31. Claims 4-6 and 8 (renumbered claim 9) have been amended. Claims 10-32 have been added. Claims 1-32 are under consideration.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-6, 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if the all trans retinoic acid comprised by the lipid carrier particles in claim 4 is the same as the lipid associated with the lipid carrier particles of claim 1, or if the all trans retinoic acid is in addition to the retinoid associated with the lipid carrier particles.

It is unclear if claim 5 intends for more than one dose over a period of at least one half hour, or if claim 5 encompasses more than one dose, wherein each dose is administered over a period of at least one half hour.

Claim 6 is vague and indefinite in the recitation of "at a frequency no greater than about every other day". There is no means to determine this frequency as the metes and bounds of

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“greater than every other day” cannot be determined, consequently the metes and bounds of not greater than every other day cannot be discerned.


The recitation of “retinoid composition” in claim 6 lacks proper antecedent basis in claim

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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Canella whose telephone number is (703) 308-8362. The examiner can normally be reached on Monday through Friday from 8:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on (703) 308-3995. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.


Karen A. Canella, Ph.D.

Patent Examiner, Group 1642

March 10, 2003